19 4.

K

File No. Medical Council II/43

Legal Deptt.

B. **BRANCH**

Subject:—

Rules and Notifications under the Indian Medical Council Act 1933

(P H E)

File No. Medical Council II/43

419 B

Gen. 194 e.

Office of the R.L.A.

Revised draft rules are sent herewith.

2. Rule 1 in Part I is unworkable, unless provision is made for Government calling upon the constituency, viz., the Senate of the University of Bombay to elect a member to the Medical Council of India to fill the vacancy, appointing a Returning Officer for the purposes of the election to be held in pursuance of such call, and also appointing the date for the counting of votes. Three new rules have therefore been added to Part I for the purpose. It presumed all other details of the election, including the appointing of the dates for the other stages of the election, are to be left to the Vice-Chancellor of the University.

3. For the reasons explained in para.2 above, it is necessary to make a provision for Government calling upon the constituency viz., persons enrolled on the register kept under section 6 of the Bombay Medical Act, 1912, to elect a member to fill the vacancy, appointing a Returning Officer in respect of the election and appointing dates for the various stages of the election, viz., nomination and scrutiny of the nomination papers, the last date and hour for the receipt of voting papers and a further date and hour for the counting of votes. The Necessary provision has been made in these new rules inserted in Part II for the purpose.

4. Rules 4-7 in Part II of the revised draft correspond to G.D. rules 2-5.

5. In view of the provision made in rule 3(a) in Part II of the revised draft, rule 4(1) in G.D. draft has been deleted.

6. G.D. draft rule 6(3) permits a duly nominated candidate to withdraw his candidature not later than 14 clear days before the date appointed for the scrutiny and counting of votes. Ordinarily, withdrawal of candidature is permitted upto a certain hour on the day succeeding the scrutiny of nomination papers only.

P.T.O.

If a candidate is allowed to withdraw his candidature at a later date as proposed in G.D. draft rule 6(3), the electorate would be deprived of their right to elect a candidate of their choice; for, under G.D. rule 6(2) the Returning Officer has, after scrutiny of nomination papers, to enter the names of all validly nominated candidates in voting papers in Form III. In the event of the withdrawal of a candidate whose name is entered in the voting paper, the vote cast by an elector on such candidate will be lost and the election held as a result of such voting will not represent the true and correct choice of the electorate as regards the other competing candidates. The provision of permitting withdrawal in G.D. draft rule 6(3) has therefore been recast as rule 8, and draft rule 6(4) omitted as being consequently unnecessary.

7. G.D. draft rule 6(1) and (2) corresponds to rule 9(1) and (2) in Part II of the revised draft.

8. G.D. draft rule 6(5) corresponds to rule 10 in Part II of the revised draft.

9. Sub-rule (6) of G.D. draft rule 6. - The proviso except the last sentence is really a proviso to the opening portion of sub-rule (6) and has been transposed as a proviso to rule 10(1) in Part II of the revised draft. The concluding portion of the Proviso is a substantive provision and has been made into a new sub-rule (2). The concluding portion of sub-rule (6) deals with an independent matter and has therefore been made into a new sub-rule (3) of rule 10 in Part II of the revised draft. It appears from Instruction 6 on the voting paper in Form III that the signature is to be attested by a Gazetted Officer of Government or a Justice of the Peace. This has been made clear.

10. The substantive protion of draft rule 7 is a repetition of the revised draft rule 10 (3) and has therefore been deleted. The proviso to draft rule 7 is really a substantive provision and has been made into a new sub-rule (4) of revised rule 10.

11. G.D. draft rules 4 and 5 appear to apply to both the elections viz. under section 3(1) (b) and 3(1) (c). It is

presumed this is intended. They correspond to revised rules 1 and 2 of new "Part III General."

12. Form III Voting Paper. Instruction 7.- It is presumed that the voting paper containing more than one X mark is to be rejected. Instruction 7 has been corrected accordingly.

Id/- P. N. M.
14/9

Remembrancer of Legal Affairs.

U.R. to G.D., No. 6185, dated the 15th September 1943.

SSD.
16.7.56. 4c.

7 Office of the R. L. A.

In order to meet the difficulty raised by the University of Bombay rule 4 may be amended by substituting the words "not later than the said date" for the words "before the said date" and rule 5 may be amended by substituting the words and figure "not later than the date appointed under rule 3" for the words and figure "within two months after the date of receipt of the notice under rule 4". The confusion is partly due to the vagueness of the intention in rule 1 of G.D. draft at page 11 ante which R.L.A. had to vet very urgently.

Id/- P. N. M.
25/10
Remembrancer of Legal Affairs.

U.R. to G.D., No 7144, dated the 26th, October 1943.

SSD.
16.7.1956. 4c.